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In re Application of  
Xiong et al.  
Application No. 10/821,010  
Filed: April 8, 2004  
Attorney Docket No. 1014-SP215-US

OFFICE OF PETITIONS

Decision on Petition

This is a decision on the petition filed October 18, 2004, which is being treated as a petition under 37 CFR 1.53(e)(2), to establish that page 5 of the drawings, containing Figures 8 and 9, was part of the originally filed application.

The application was filed on April 8, 2004. On August 13, 2004, a Notice was mailed stating that Figures 8 and 9 described in the specification did not appear to be included as part of the application filed.

The present petition alleges that Figures 8 and 9 were deposited on April 8, 2004. In support, petitioner has submitted a postcard receipt which acknowledges receipt of 6 sheets of drawings on April 8, 2004.<sup>1</sup>

The USPTO file for this application includes only 5 sheets of drawings and does not include the drawing sheet containing Figures 8 and 9 described in the specification. Based on the evidence submitted, the Office concludes the missing page was part of the application but was later misplaced. Therefore, the petition is granted.

No petition fee is required and none has been charged.

The Notice mailed August 13, 2004, was sent in error and is hereby vacated.

The Office of Initial Patent Examination will be informed of this decision and will further process the file with a filing date of April 8, 2004, using the application papers filed on April 8, 2004, and the copy of page 5 of the drawings, containing Figures 8 and 9, filed on October 18, 2004. The Office of Initial Patent Examination will also forward the petition to make special to the party responsible for rendering a decision on that petition.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley  
Petitions Attorney  
Office of Petitions

<sup>1</sup> Evidence of receipt of any correspondence filed in the Patent and Trademark Office can be obtained by submitting a self addressed post card properly itemizing and identifying the paper or papers being filed. Upon receipt of the correspondence, the Patent and Trademark Office will check the listing on the post card against the papers submitted, making sure that all items listed are present and will then stamp the postcard with an Official date stamp and place the post card in the outgoing mail. "A post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all items listed thereon by the PTO." M.P.E.P. § 503.